

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Paul Frank Mathews & Maria Emilia
Mathews,

Plaintiffs

V.

Equestrian Estates Homeowners Association,

Defendant

Case No. 2:21-cv-01425-CDS-DJA

Order Granting Defendant's Motion to Dismiss, Denying Plaintiffs' Motion to File Supplemental Information, and Closing Case

[ECF Nos. 10, 17]

11 Plaintiffs Paul Frank Mathews and Maria Emilia Mathews (“the Mathewses”)¹ sue
12 defendant Equestrian Estates Homeowners Association (“EEHA”) for various tortious and
13 property-based claims arising out of EEHA’s use of an entry gate that required the Mathewses to
14 move plants on their property away from the gate and its mechanisms. However, federal courts
15 may only adjudicate controversies over which they have jurisdiction. Because the Mathewses
16 have failed to demonstrate that this court has jurisdiction over this property dispute, I grant
17 EEHA’s motion to dismiss, dismiss plaintiffs’ complaint with prejudice, and direct the Clerk of
18 Court to close this case. I also deny plaintiffs’ motion to file supplemental authority concerning
19 the merits of the underlying property dispute.

I. Motion to dismiss [ECF No. 10]

“Federal courts are courts of limited jurisdiction’, possessing ‘only that power authorized by Constitution and statute.” *Gunn v. Minton*, 568 U.S. 251, 256 (2013) (quoting *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). Federal courts have subject-matter jurisdiction either based on the diversity of the parties or if a federal question is

²⁶ ¹ The Mathewses are pro se litigants, and “pro se pleadings must be construed liberally[.]” *Draper v. Rosario*, 836 F.3d 1072, 1080 (9th Cir. 2016).

1 presented. 28 U.S.C. §§ 1331, 1332. After thorough consideration of the relevant law, the parties' 2 briefs, and the plaintiffs' complaint, I find no basis for federal jurisdiction over this matter and 3 therefore must grant EEHA's motion to dismiss. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006) 4 (citation omitted) ("[W]hen a federal court concludes that it lacks subject-matter jurisdiction, 5 the court must dismiss the complaint in its entirety.").

6 First, I find that this court does not have diversity jurisdiction over this matter. A federal 7 court's diversity jurisdiction extends "to all civil actions where the amount in controversy 8 exceeds . . . \$75,000 . . . and is between [c]itizens of different [s]tates." 28 U.S.C. § 1332(a)(1). 9 The Mathewses concede that there is no basis for diversity jurisdiction (Resp., ECF No. 12 at 8), 10 as they and EEHA are all citizens of Nevada and the amount in controversy is less than \$75,000. 11 ECF No. 1 at 8, 23. So the only other way that this court could have jurisdiction to hear this case 12 is if it presents a federal question. I find that it does not. District courts have federal-question 13 jurisdiction "of all civil actions arising under the Constitution, laws, or treaties of the United 14 States." 28 U.S.C. § 1331. However, an action "arises under" federal law only if the federal 15 question appears on the face of a well-pled complaint. Here, the Mathewses assert that this case 16 implicates the Fifth Amendment because EEHA has performed an "uncompensated taking" of 17 their personal property by installing a moving gate at an egress point of the neighborhood, a 18 point which allegedly sits on plaintiffs' property. ECF No. 1 at 9, ECF No. 12 at 2.

19 "Generally speaking, state law defines property interests." *Stop the Beach Renourishment, Inc.* 20 *v. Fla. Dep't of Environ. Protection*, 560 U.S. 702, 707 (2010) (citing *Phillips v. Wash. Legal Found.*, 524 21 U.S. 156, 164 (1998)). The Takings Clause that the Mathewses reference—"nor shall private 22 property be taken for public use, without just compensation," U.S. Const., Amend. V—is 23 classically "a transfer of property to the [s]tate or to another private party by eminent domain" 24 but may also apply to "other state actions that achieve the same thing." *Id.* at 713. "In sum, the 25 Takings Clause bars the [s]tate from taking private property without paying for it," although the 26 particular state actor is irrelevant. *Id.* at 715. Plaintiffs' allegation that EEHA has deprived them

1 of their due-process rights by taking their property without compensation turns on whether
 2 EEHA is considered a “state actor.”

3 A homeowners’ association is not generally a state actor, and the Mathewses allege no
 4 facts under which I could find an exception to that general rule. “A private homeowners’
 5 association is not the functional equivalent of a municipality or a purported ‘quasi-
 6 governmental’ entity.” *Kulick v. Leisure Vill. Ass’n, Inc.*, 2019 WL 4918265, at *2 (C.D. Cal. Oct. 2,
 7 2019) (citing *Snowdon v. Preferred RV Resort Owners Ass’n*, 379 Fed. App’x 636, 637 (9th Cir. 2010)
 8 (holding that a Nevada homeowners’ association was not a state actor)). The Mathewses argue
 9 that EEHA might still be considered a state actor under the test articulated by the United States
 10 Supreme Court in *Manhattan Community Access Corporation v. Halleck*, 139 S. Ct. 1921 (2019). Resp.,
 11 ECF No. 12 at 2. The plaintiffs’ analysis, however, misreads *Halleck*. The Supreme Court “has
 12 stressed that ‘very few’ functions fall into” the category of private entities qualifying as state
 13 actors. *Halleck*, 139 S. Ct. at 1929. This is because “being regulated by the [s]tate does not make
 14 one a state actor.” *Id.* at 1932. “As the Court’s cases have explained, the ‘being heavily regulated
 15 makes you a state actor’ theory of state action is entirely circular and would significantly
 16 endanger individual liberty and private enterprise.” *Id.*

17 The Mathewses cite no law in support of their contentions that actions performed by
 18 EEHA constitute a performance of once-exclusive public functions. *See generally* ECF No. 12.
 19 Their conclusory arguments that EEHA’s provision of a community well somehow makes it a
 20 water authority, or that EEHA’s servicing and maintenance of community fire hydrants has
 21 placed it “in the shoes of the Fire Department” are not based in law. *Id.* at 3. And just because “it
 22 holds [its] own elections, [has] quorums, [and] make[s] motions” does not mean that EEHA
 23 runs its “own little mini town.” *Id.* at 3–4. Without any authority indicating that any of EEHA’s
 24 functions are actually “traditionally *and* exclusively performed” by the government (*Halleck*, 139 S.
 25 Ct. at 1929), I cannot find that EEHA constitutes a state actor. Nor can I conclude that any of its
 26 alleged actions constitute uncompensated takings under the Fifth Amendment. There is thus no

1 federal question articulated by the facts in the complaint.

2 Because this court has no basis of jurisdiction over the controversy alleged in the
3 complaint, I do not address the merits of the plaintiffs' complaint. While leave to amend "shall
4 be freely given when justice so requires" (Fed. R. Civ. P. 15(a)), and that policy is "to be applied
5 with extreme liberality" (*Owens v. Kaiser Found. Health Plan, Inc.*, 224 F.3d 708, 712 (9th Cir. 2001)
6 (internal quotation omitted)), I find that justice does not require amendment in this case. The
7 "fundamental nature of the jurisdictional defect discussed herein" means that "amendment of the
8 [c]omplaint would be futile." *Kulick*, 2019 WL 4918265, at *2.

9 **II. Motion to file supplemental authority [ECF No. 17]**

10 Plaintiffs also move to file supplemental authority concerning various points of law
11 relevant to their lawsuit. *See generally* Mot., ECF No. 17. However, none of plaintiffs' arguments
12 justify the exercise of federal jurisdiction over this controversy. Somewhat tellingly, each of the
13 opinions cited by plaintiffs for instances of courts "upholding constitutional rights of
14 homeowners" were drafted by state courts. *See id.* at 6–8 (citing cases from the Superior Court of
15 Massachusetts; the Illinois Appellate Court, First Division; the New Jersey Superior Court,
16 Appellate Division; the Supreme Court of New York, Appellate Division; District Court for
17 Collin County, Texas (the 429th Judicial District in Texas); and the New Jersey Supreme
18 Court). Because I have no basis on which to exercise jurisdiction over this case, and plaintiffs'
19 motion cites no authority which would allow me to draw such a conclusion, I deny plaintiffs'
20 motion to file supplemental information.

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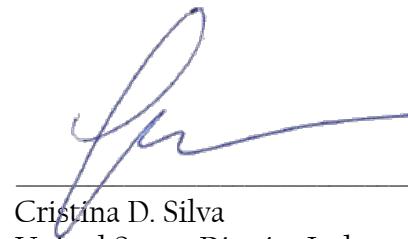
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1 III. Conclusion

2 IT IS HEREBY ORDERED that plaintiffs' motion to file supplemental information [ECF
3 No. 17] is DENIED.

4 IT IS FURTHER ORDERED that defendant's motion to dismiss [ECF No. 10] is
5 GRANTED. Plaintiffs' complaint is dismissed with prejudice and without leave to amend. The
6 Clerk of Court is instructed to enter judgment accordingly and CLOSE THIS CASE.

7 DATED: February 14, 2023



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10 Cristina D. Silva
11 United States District Judge
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